

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

City of Detroit, Michigan,

Debtor.

Bankruptcy Case No. 13-53846  
Honorable Thomas J. Tucker  
Chapter 9

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**EXHIBIT D (BLUE CROSS PLAN) IN SUPPORT OF DPLSA'S RESPONSE IN  
OPPOSITION TO CITY OF DETROIT'S MOTION FOR (I) DETERMINATION  
THAT THE DETROIT POLICE LIEUTENANTS AND SERGEANTS  
ASSOCIATION HAS VIOLATED THE TERMS OF THE CITY OF DETROIT'S  
CONFIRMED PLAN OF ADJUSTMENT AND THE ORDER CONFIRMING IT;  
AND (II) ORDER (A) ENJOINING FURTHER VIOLATIONS AND  
(B) REQUIRING DISMISSAL OF STATE ACTIONS [DOCKET NO. 9656]**

PART 11 OF 14

## Section 5: General Services We Do Not Pay For

**We do not pay for services covered under any other Blue Cross or Blue Shield contract or under any other health care benefits plan.**

The services listed in this section are in addition to all other **nonpayable** services stated in this certificate.

- Noncontractual services described in your case management treatment plan when such services have not been approved by BCBSM
- Hospital admissions that we do not pay for:
  - Those for care that is not considered acute, such as:
    - Observation
    - Diagnostic evaluations
    - Dental treatment, including extraction of teeth, except as otherwise noted in this certificate
    - Lab exams
    - Electrocardiography
    - Weight reduction
    - X-ray, exams or therapy
    - Cobalt or ultrasound studies
    - Basal metabolism tests
    - Convalescence, rest care or convenience
  - Those mainly for physical therapy, speech and language pathology services or occupational therapy
  - Services that may be medically necessary but can be provided safely in an outpatient or office location
  - Custodial care or rest therapy
  - Psychological tests if used as part of, or in connection with, vocational guidance training or counseling
  - Outpatient inhalation therapy
  - Sports medicine, patient education or home exercise programs

- Alternative facility services that we do not pay for:

We do not pay for any facility services you receive in a convalescent and long-term illness care facility, nursing home, rest home or similar nonhospital institution.



If a nursing home is your primary residence, then we will treat that location as your home. Under those circumstances, services that are payable in your home will also be covered when provided in a nursing home when performed by health care providers other than the nursing home staff.

- Professional provider services that we do not pay for:

- Services, care, supplies or devices not prescribed by a physician
- Self-treatment by a professional provider and services given by the provider to parents, siblings, spouse or children
- Services for cosmetic surgery when performed primarily to improve appearance, except for those conditions listed on Page 94
- Weight loss programs
- Services provided during nonemergency medical transport
- Experimental treatment
- Hearing aids or services to examine, prepare, fit or obtain hearing aids
- Health care services provided by persons who are not eligible for payment or appropriately credentialed or privileged (as determined by BCBSM) or providers who are not legally authorized or licensed to order or provide such services



If BCBSM has not credentialed or privileged a participating/PPO in-network provider to perform a service, the provider will be financially responsible for the entire cost of the service and cannot bill you for it. This includes the charge for the service and any copayments, deductibles or other cost-sharing amounts. If you receive services from a nonparticipating/ out-of-network provider who is not credentialed or privileged to perform a service, you will have to pay for the entire cost of the service.

- Services to examine, prepare, fit or obtain eyeglasses or other corrective eye appliances, unless you lack a natural lens
- Alternative medicines or therapies (such as acupuncture, herbal medicines and massage therapy)

## Section 6: General Conditions Of Your Contract

### Professional provider services that we do not pay for: (continued)

- Infertility services that do not treat a medical condition other than infertility. This can include services such as:
  - Sperm washing
  - Post-coital test
  - Monitoring of ovarian response to ovulatory stimulants
  - In vitro fertilization
  - Ovarian wedge resection or ovarian drilling
  - Reconstructive surgery of one or both fallopian tubes to open the blockage that causes infertility
  - Diagnostic studies done for the sole purpose of infertility assessment
  - Any procedure done to enhance reproductive capacity or fertility



You or your physician can call us to determine if other proposed services are a covered benefit under your certificate.

- Sports medicine, patient education (except as otherwise specified) or home exercise programs
- Screening services (except as otherwise stated)
- Rest therapy or services provided to you while you are in a convalescent home, long-term care facility, nursing home, rest home or similar nonhospital institution



If a nursing home is your primary residence, then we will treat that location as your home. Under those circumstances, services that are payable in your home will also be covered when provided in a nursing home when performed by health care providers other than the nursing home staff.

## Section 6: General Conditions of Your Contract

**This section lists and explains certain general conditions that apply to your contract. These conditions may make a difference in how, where and when benefits are available to you.**

### ***Assignment***

The services provided under this certificate are for your personal benefit and cannot be transferred or assigned. Any attempt to assign this contract will automatically terminate all your rights under it. No right to payment from us, claim or cause of action against us may be assigned by you to any provider. We will not pay any provider except under the terms of this contract.

### ***Care and Services That are Not Payable***

We do not pay for the following care and services:

- Those for which you legally do not have to pay or for which you would not have been charged if you did not have coverage under this certificate
- Those available in a hospital maintained by the state or federal government, unless payment is required by law
- Those payable by government-sponsored health care programs, such as Medicare, for which a member is eligible. These services are not payable even if you have not signed up to receive the benefits provided by such programs. However, care and services are payable if federal laws require the government-sponsored program to be secondary to this coverage.
- Any services not listed in this certificate as being payable

### ***Changes in Your Family***

We must be notified by your group of any changes in your family. This requires you to complete an enrollment/change of status form with your group. Any coverage changes will then take effect as of the date of the event. Changes include marriage, divorce, birth, death, adoption, or the start of military service. An enrollment/change of status form should be completed when you have a change of address.

### ***Changes to Your Certificate***

BCBSM employees, agents or representatives cannot agree to change or add to the benefits described in this certificate.

- Any changes must be in writing and approved by BCBSM and the Director of the Michigan Department of Insurance and Financial Services.
- We may add, limit, delete or clarify benefits by issuing a rider. Keep any riders you receive with this certificate.

## Section 6: General Conditions Of Your Contract

### ***Coordination of Benefits***

We will coordinate the benefits payable under this certificate pursuant to the Coordination of Benefits Act, Public Act No. 64 of 1984 (starting at MCLA 550.251). To the extent that the services covered under this certificate are also covered and payable under another group health care plan, we will combine our payment with that of the other plan to pay the maximum amount we would routinely pay for the covered services.

### ***Coverage for Drugs and Devices***

We do not pay for any drug or device prescribed for uses or in dosages other than those specifically approved by the Federal Food and Drug Administration. (This is often referred to as the off-label use of a drug or device.) However, we will pay for such drugs and the reasonable cost of supplies needed to administer them, if the prescribing M.D. or D.O. can substantiate that the drug is recognized for treatment of the condition for which it is prescribed by one of the following:

- The American Hospital Formulary Service Drug Information
- The United States Pharmacopoeia Dispensing Information, Volume 1, "Drug Information for the Health Care Professional"
- Two articles from major peer-reviewed medical journals that present data supporting the proposed off-label use or uses as generally safe and effective unless there is clear and convincing contradictory evidence presented in a major peer-reviewed medical journal.



Chemotherapeutic drugs are not subject to this general condition.

### ***Deductibles, Coinsurance and Copayments Paid Under Other Certificates***

We do not pay deductibles, coinsurance or copayments that you were required to pay under any other certificate subject to coordination of benefits requirements.

### ***Entire Contract; Changes***

This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

## ***Experimental Treatment***

### **Services That Are Not Payable**

We do not pay for experimental treatment (including experimental drugs or devices) or services related to experimental treatment, except as explained under "Clinical Trials (Routine Patient Costs)", "Oncology Clinical Trials" in Section 3 and "Services That Are Payable" below. In addition, we do not pay for administrative costs related to experimental treatment or for research management.



This certificate does not limit or preclude the use of chemotherapeutic or off-label drugs when Michigan law requires that these drugs, and the reasonable cost of their administration, be covered.

### **How BCBSM Determines If a Treatment Is Experimental**

If a treatment, including items and services, is not covered under "Clinical Trials (Routine Patient Costs)" or "Oncology Clinical Trials" in Section 3, BCBSM's medical director will determine whether it is experimental. For example, a treatment, item or service may be determined to be experimental when:

- Medical literature or clinical experience is inconclusive as to whether the service is safe or effective for treatment of any condition, or
- It has been shown to be safe and effective treatment for some conditions, but there is inadequate medical literature or clinical experience to support its use in treating the patient's condition, or
- Medical literature or clinical experience has shown the service to be unsafe or ineffective for treatment of any condition, or
- There is a written experimental or investigational plan by the attending provider or another provider studying the same service, or
- It is being studied in an on-going clinical trial, or
- There is a written informed consent used by the treating provider in which the service is referred to as experimental or investigational or other than conventional or standard treatment.



The medical director may consider other factors.

When available, the following sources will be considered in evaluating whether a treatment is experimental under the above criteria:

- Scientific data, such as controlled studies in peer-reviewed journals or medical literature
- Information from the Blue Cross and Blue Shield Association or other local or national bodies
- Information from independent, nongovernmental, technology assessment and medical review organizations

## Section 6: General Conditions Of Your Contract

### Experimental Treatment (continued)

- Information from local and national medical societies, other appropriate professional societies, organizations, committees or governmental bodies
- Approval, when applicable, by the Federal Food and Drug Administration (FDA), the Office of Health Technology Assessment (OHTA) and other governmental agencies
- Accepted national standards of practice in the medical profession
- Approval by the Institutional Review Board of the hospital or medical center



The medical director may consider other sources.

### Services That Are Payable

We do pay for experimental treatment and services related to experimental treatment when **all** of the following are met:

- BCBSM considers the experimental treatment to be conventional treatment when used to treat another condition (i.e., a condition other than what you are currently being treated for).
- The treatment is covered under your certificates when it is provided as conventional treatment.
- The services related to the experimental treatment are covered under your certificates when they are related to conventional treatment.
- The experimental treatment and related services are provided during a BCBSM-approved oncology clinical trial (check with your provider to determine whether a clinical trial is approved by BCBSM) or the related items or services are routine patient costs that are covered under "Clinical Trials (Routine Patient Costs)" in Section 3.



This certificate does not limit or preclude the use of chemotherapeutic off-label drugs when Michigan law requires that these drugs, and the reasonable cost of their administration, be covered.

### Limitations and Exclusions

- This section of your certificate does not provide coverage for services not otherwise covered under your certificates.
- Drugs or devices provided to you during a BCBSM-approved oncology clinical trial will be covered only if they have been approved by the FDA, regardless of whether the approval is for treatment of the member's condition, and to the extent they are not normally provided or paid for by the sponsor of the trial or the manufacturer, distributor or provider of the drug or device.

### ***Grace Period***

A grace period of 31 days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

### ***Illness or Injuries Resulting from War***

Services are not payable for the treatment of illness or injuries resulting from declared or undeclared military acts of war.

### ***Improper Use of Contract***

If you allow any ineligible person to receive benefits (or try to receive benefits) under your contract, we may:

- Refuse to pay benefits
- Cancel your contract
- Begin legal action against you
- Refuse to cover your health care services at a later date

### ***Individual Coverage***

If you choose not to enroll in COBRA, or if your COBRA coverage period ends, coverage may be available through a BCBSM individual plan. Contact BCBSM Customer Service for information about what plan best meets your needs.

### ***Notification***

When we need to notify you, we mail the notice to you or remitting agent or to your most recent address we have in our records, as applicable. This fulfills our obligation to notify you.

### ***Payment of Covered Services***

The covered services described in this certificate, such as multiple surgeries or a series of services such as laboratory tests, are combined and paid according to payment policies adopted by BCBSM.

### ***Personal Costs***

We will not pay for:

- Transportation and travel, even if prescribed by a physician, except as provided in this certificate
- Care, services, supplies or devices that are personal or convenience items
- Charges to complete claim forms
- Domestic help

## Section 6: General Conditions Of Your Contract

### ***Pharmacy Fraud, Waste, and Abuse***

We do not pay for the following:

- Prescription drugs that are not medically necessary; may cause significant patient harm; or are not appropriate for the patient's documented medical condition;
- Drugs prescribed by a prescriber who is sanctioned at the time the prescription is dispensed.

**NOTE:** Sanctioned prescribers have been sanctioned by BCBSM, the Office of the Inspector General, the Government Services Agency, the Centers for Medicare and Medicaid Services, or state licensing boards.

BCBSM will notify you if any prescriber you have received services from during the previous 12 months has been sanctioned. You will be given 30 days notice, after which we will not pay for prescriptions written by the sanctioned prescriber.

### ***Physician of Choice***

You may continue to receive services from the physician of your choice. However, you should receive services from an in-network physician in order to avoid out-of-network costs to you.

### ***Release of Information***

**You agree** to permit providers to release information to us. This can include medical records and claims information related to services you may receive or have received.

**We agree** to keep this information confidential. Consistent with our Notice of Privacy Practices, this information will be used and disclosed only as authorized by law.

### ***Reliance on Verbal Communications***

Verbal verification of a member's eligibility for coverage or availability of benefits is not a guarantee of payment of claims. All claims are subject to a review of the diagnosis reported, medical necessity verification, and the availability of benefits at the time the claim is processed, as well as to the conditions, limitations, exclusions, maximums, deductibles and copayments under your coverage.

### ***Right to Interpret Contract***

During claims processing and internal grievances, BCBSM reserves the right to interpret and administer the terms of this certificate and any riders that amend it. BCBSM's final adverse decisions regarding claims processing and grievances are subject to your right to appeal under applicable law.

### ***Semiprivate Room Availability***

If a semiprivate room is not available when you are admitted to a participating hospital, you may be placed in a room with more than two beds. When a semiprivate room is available, you will be placed in it. You may select a private room; however, you will be responsible for any additional cost. BCBSM will not pay the difference between the cost of hospital rooms covered by your certificate and more expensive rooms.

### ***Services Before Coverage Begins or After Coverage Ends***

Unless otherwise stated in this certificate, we will not pay for any services, treatment, care or supplies provided before your coverage under this certificate becomes effective or after your coverage ends. If your coverage begins or ends while you are an inpatient at an acute care hospital, our payment will be based on the hospital's contract with us. Our payment may cover:

- The services, treatment, care or supplies you receive during the entire admission, or
- Only the services, treatment, care or supplies you receive while your coverage is in effect.

**Our payment will cover only the services, treatment, care or supplies you receive while your coverage is in effect if your coverage begins or ends while you are:**

- An inpatient in a facility such as: hospice, long-term acute care facility, rehabilitation hospital, psychiatric hospital, skilled nursing facility or other facility identified by BCBSM, or
- Under a course of treatment for an episode of illness from a home health agency, ESRD facility or outpatient hospital physical/occupational/speech therapy unit or other facility identified by BCBSM.

In addition, if you have other coverage when you are admitted to or discharged from a facility, your other carrier may be responsible for paying for the care you receive before the effective date of your BCBSM coverage or after it ends.

### ***Subscriber Liability***

At the discretion of your provider, certain technical enhancements may be employed to complement a medical procedure. These enhancements may involve additional costs above and beyond the approved maximum payment level for the basic procedure. The costs of these enhancements are not covered by this certificate. Your provider must inform you of these costs. You then have the option of choosing any enhancements and assuming the liability for these additional charges.

### ***Time Limit for Filing Claims***

We will not pay for claims for drugs that are not filed within the following time limits from the date of service:

- 60 days for pay-provider claims
- One year for pay-subscriber claims

### ***Time Limit for Legal Action***

Legal action against us may not begin later than three years after we have received a complete claim for services. No action or lawsuit may be started until 30 days after you notify us that our decision under the claim review procedure is unacceptable.

## Section 6: General Conditions Of Your Contract

### ***Time Limit on Certain Defenses***

After 2 years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such 2-year period.

No claim for loss incurred or disability commencing after 2 years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

### ***Unlicensed and Unauthorized Providers***

Benefits are not payable for health care services provided by persons who are not appropriately credentialed or privileged (as determined by BCBSM), or legally authorized or licensed to order or provide such services.

### ***What Laws Apply***

This certificate will be interpreted under the laws of the state of Michigan and federal law where applicable.

### ***When Others are Responsible for Illness or Injury (Subrogation)***

If another person or entity, through an act or omission, causes you to suffer an injury or illness, and if we paid benefits for that injury or illness, you must agree to the provisions listed below. In addition, if you are injured and no other person or entity is responsible but you receive (or are entitled to) a recovery from another source, and if we paid benefits for that injury, you must agree to the following provisions:

- All recoveries you or your representatives obtain (whether by lawsuit, settlement, insurance or benefit program claims, or otherwise), no matter how described or designated, must be used to reimburse us in full for benefits we paid. Our share of any recovery extends only to the amount of benefits we have paid or will pay to you or your representatives. For purposes of this provision, "you" includes your covered dependents, and "your representatives" include, if applicable, your heirs, administrators, legal representatives, parents (if you are a minor), successors, or assignees. This is our right of recovery.
- We are entitled under our right of recovery to be reimbursed for our benefit payments even if you are not "made whole" for all of your damages in the recoveries that you receive. Our right of recovery is not subject to reduction for attorney's fees and costs under the "common fund" or any other doctrine.
- We will not reduce our share of any recovery unless, in the exercise of our discretion, we agree in writing to a reduction (1) because you do not receive the full amount of damages that you claimed or (2) because you had to pay attorneys' fees.
- You must cooperate in doing what is reasonably necessary to assist us with our right of recovery. You must not take any action that may prejudice our right of recovery.

**When Others are Responsible for Illness or Injury (continued)**

- If you do not seek damages for your illness or injury, you must permit us to initiate recovery on your behalf (including the right to bring suit in your name). This is called subrogation.

If you do seek damages for your illness or injury, you must tell us promptly that you have made a claim against another party for a condition that we have paid or may pay benefits for, you must seek recovery of our benefit payments and liabilities, and you must tell us about any recoveries you obtain, whether in or out of court. We may seek a first priority lien on the proceeds of your claim in order to reimburse ourselves to the full amount of benefits we have paid or will pay.

We may request that you sign a reimbursement agreement and/or assign to us (1) your right to bring an action or (2) your right to the proceeds of a claim for your illness or injury. We may delay processing of your claims until you provide the signed reimbursement agreement and/or assignment, and we may enforce our right of recovery by offsetting future benefits.



**NOTE** We will pay the costs of any covered services you receive that are in excess of any recoveries made.

Our rights of recovery and subrogation as described in this Section may be enforced by BCBSM or by any Local Plan that administered the benefits paid in connection with the injury or illness at issue, or by any combination of these entities.

Among the other situations covered by this provision, the circumstances in which we may subrogate or assert a right of recovery shall also include:

- When a third party injures you, for example, through medical malpractice;
- When you are injured on premises owned by a third party; or
- When you are injured and benefits are available to you or your dependent, under any law or under any type of insurance, including, but not limited to:
  - Medical reimbursement coverage

Contact us if you need more information about subrogation.

***Workers Compensation***

We do not pay for the treatment of work-related injuries covered by workers compensation laws or for work-related services you receive through a medical clinic or a similar facility provided or maintained by an employer.